

Remarks

The Final Office Action of October 14, 2009 and Advisory Action of January 12, 2010 have been carefully considered. Claims 1 - 3, 22 and 25 are amended. Claims 1 - 7, 19 - 20, 22, and 24 - 25 are currently pending.

Claim Rejections - 35 U.S.C. § 102

Claims 1 - 4, 19, 20, 22, and 24 - 25 are rejected under 35 U.S.C. § 102(e) as being anticipated by Parks, et al. (US Patent 7, 025,790 B2). This rejection is traversed.

Independent Claims 1 and 22 are amended to recite that the implant consists essentially of a monolithic structure. The monolithic structure is shaped such that, when implanted, the tibia can articulate across the first major surface of the monolithic structure. The monolith structure includes a bead shaped structure proximate to the implant's anterior side sized to engage the neck of the talus, wherein the implant is substantially free of anchoring portions for attachment to the tibia or talus.

The invention as currently claimed in Claims 1 and 22 provides a one piece implant that is structured to be implanted by itself without the need for additional components and without the need to need to be attached to the bone, cartilage, ligaments or other tissue. Parks, et al does not disclose such a device.

In contrast, Parks, et al. provides a two or three piece structure. Each piece works in conjunction with the other component. The upper component (the tibial component 40) has one or more lateral-to-medial aligned protruding surfaces 46 that are configured to match with similarly shaped recesses that have been made in the

tibia's prepared surface. See Parks, et al. at col. 9, lines 49-52 and FIG. 9. The Office Action generally cites to the talar component 50. However, the talar component 50 does not have a first major surface adapted to be positioned against a tibia and shaped to allow the tibia to articulate across the first major surface. In fact, the talar component is never in contact with the tibia.

Further Parks, et al. does not disclose a bead shaped structure proximate to the implant's anterior side sized to engage the neck of the talus. The Final Office Action cites to col. 9, lines 61-63 of Parks, et al. However, the beads referred to in this section of Parks, et al. refer to material that is coated on the top surface of the tibial component (and therefore in contact with the tibia and not the talus) and is a substance that enhances bony ingrowth or cement fixation. These "beads" are entirely different functionally and structurally.

With regard to Claim 22, it recites the implanted device is substantially free of anchoring portions that need to be attached to the bone, cartilage, ligaments or other tissue. Parks, et al. does not disclose a device with this feature. The Office Action claims that element 50 of Parks, et al. does not disclose anchoring portions. This is incorrect. Parks, et al. states with regard to 50:

At some point the talar component's bottom surface, preferably at its anterior and posterior edges, are protrusions or ridges 58 that extend downward from its bottom surface 54. The shape of these protrusions 58 is configured to match with the similarly shaped recesses or extrusions that have been made in the talar dome's prepared surface.

Parks, et al. at Col. 10, line 3 -10. Accordingly, none of the components of Parks, et al. are free of anchoring portions.

With regard to Claim 25, as amended it recites the monolithic implant comprises a polyurethane that includes both hard and soft segments. Parks, et al. does not disclose a monolithic implant with this composition. Removal of the rejection is respectfully requested.

Claim Rejections - 35 U.S.C. § 103

Claims 5 – 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Parks, et al. (US Patent 7, 025,790 B2) in view of Schon (US Patent 6,572,620).

For the reasons discussed above, Parks, et al. does not disclose the elements of Claim 1. Accordingly, the combination of Parks, et al. and Schon do not disclose the elements of Claims 5 - 7. Removal of the rejection is requested.

Conclusion

The instant application is believed to be in condition for allowance. A Notice of Allowance of claims 1 - 7, 19 - 20, 22, and 24 - 25 is respectfully requested. The Examiner is invited to telephone the undersigned at (908) 722-0700 if it is believed that further discussions, and/or additional amendment would help advance the prosecution of the instant application.

If any extension of time for this response is required, applicants request that this be considered a petition therefore. Please charge any required petition fee to Deposit Account No. 14-1263.

Respectfully submitted,

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